

Senate Engrossed

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 9

## **SENATE BILL 1014**

AN ACT

AMENDING SECTIONS 3-1086, 3-1086.02 AND 3-1087, ARIZONA REVISED STATUTES;  
RELATING TO THE COTTON RESEARCH AND PROTECTION COUNCIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-1086, Arizona Revised Statutes, is amended to  
3 read:

4 3-1086. Fees; collection; budget

5 A. The council ~~shall~~, on or before July 1 of each calendar year, SHALL  
6 assess a fee of not to exceed one dollar per bale of cotton produced in this  
7 state on land above twenty-seven hundred feet in elevation and not to exceed  
8 five dollars per bale of cotton produced in this state on land twenty-seven  
9 hundred feet in elevation or below. If the ~~director~~ COUNCIL finds that  
10 ~~programs A PROGRAM of cotton-pest PINK BOLLWORM eradication are~~ IS necessary  
11 on land above twenty-seven hundred feet in elevation, the council may, ~~upon~~  
12 ~~such finding~~, raise the fee not to exceed five dollars per bale of cotton FOR  
13 THE DURATION OF THE ERADICATION PROGRAM OR FOR FOUR YEARS AFTER ESTABLISHING  
14 THE ERADICATION PROGRAM, WHICHEVER PERIOD EXPIRES FIRST, AFTER WHICH THE FEE  
15 REVERTS TO NOT MORE THAN ONE DOLLAR PER BALE OF COTTON.

16 B. Cotton gins shall collect and remit the fee to the council  
17 according to procedures and on forms the council prescribes. A gin shall  
18 remit at least one-half of the annual fee as established by the council and  
19 not designated as a refund for the abatement of cotton fields as provided in  
20 section 3-1087, subsection B on or before February 15 of each year with a  
21 report of actual bales ginned through January 31 of each year and an estimate  
22 of bales to be ginned by March 15. The remainder of the fee is due on or  
23 before March 15 of each year. The portion of the fee that is designated as  
24 a refund for the abatement of cotton fields may be held by the gin, subject  
25 to certification by the Arizona department of agriculture that a producer has  
26 complied with the abatement program. Upon notification of certification to  
27 the gin, the fee designated for the abatement program as a refund shall be  
28 credited to the producer's account of the gin responsible for the remittance  
29 of the fee. If a producer fails to comply with the program to abate cotton  
30 fields according to plow-up rules adopted under chapter 2, article 1 of this  
31 title, the fee designated as a refund shall be remitted, in full, to the  
32 council. The gin shall inform the council, on forms prescribed by the  
33 council, of the names of persons or farms for which the gin is withholding  
34 the fee designated as a refund under section 3-1087, subsection B, ~~at the~~  
35 time the fee is collected.

36 C. A cotton producer is responsible for payment of the fee unless the  
37 fee is withheld for payment to the council by a gin.

38 D. Before establishing the annual fee the council shall establish a  
39 budget. The budget is effective on approval of the council.

40 E. Title 41, chapter 6 does not apply to setting the fee under this  
41 section, but the council shall provide sixty days' advance notice of the  
42 meeting at which the fee will be adopted and the amount of the proposed  
43 fee. The council shall receive public testimony at the meeting regarding the  
44 fee.

1           Sec. 2. Section 3-1086.02, Arizona Revised Statutes, is amended to  
2 read:

3           3-1086.02. Pink bollworm eradication program; fee;  
4                 registration; civil penalties

5           A. ~~A pink bollworm eradication program may be established in each of~~  
6 ~~three regions of this state as provided by this section. Region one includes~~  
7 ~~Maricopa, Pinal, Pima, Mohave and La Paz counties. Region two includes Yuma~~  
8 ~~county. Region three includes Graham, Greenlee and Cochise counties. The~~  
9 ~~department shall conduct a referendum on behalf of the council among cotton~~  
10 ~~producers in each region~~ THE COUNCIL MAY ORGANIZE AND IMPLEMENT A PINK  
11 BOLLWORM ERADICATION PROGRAM. THE COUNCIL SHALL CONDUCT A REFERENDUM AMONG  
12 ELIGIBLE COTTON PRODUCERS, AS DETERMINED BY THE COUNCIL, WITH THE ASSISTANCE  
13 OF THE DEPARTMENT AND APPROPRIATE FEDERAL AGENCIES, on the question of  
14 establishing a program and fee. The ballot for the referendum shall present  
15 the question, "Shall a pink bollworm eradication program and fee of not more  
16 than forty THIRTY-TWO dollars per planted acre of cotton be established in  
17 this region STATE?" with spaces in which the voter can indicate a vote for  
18 or against the proposal. The program may not be established unless EITHER:

19           1. At least sixty-six per cent of the voters in a region THOSE VOTING  
20 approve of the program for the region.

21           2. THOSE VOTING TO APPROVE THE PROGRAM REPRESENT MORE THAN FIFTY PER  
22 CENT OF THE COTTON ACREAGE IN THIS STATE, AS DETERMINED BY THE COUNCIL.

23           B. ~~If approved, the referendum authorizes region one to establish the~~  
24 ~~program for a period of three years beginning July 1, 2000, region two to~~  
25 ~~establish the program for a period of three years beginning July 1, 2001 and~~  
26 ~~region three to establish the program for a period of three years beginning~~  
27 ~~July 1, 2002.~~

28           B. IF APPROVED, THE COUNCIL MAY CHOOSE TO EITHER IMPLEMENT A STATEWIDE  
29 ERADICATION PROGRAM OR ESTABLISH REGIONAL AREAS IN THIS STATE FOR  
30 IMPLEMENTATION OF AN ERADICATION PROGRAM.

31           C. The authority to assess and collect the pink bollworm eradication  
32 program fee under this section terminates ~~three~~ FOUR years after the date  
33 establishing the pink bollworm eradication program ~~in each region~~ STATEWIDE  
34 OR FOUR YEARS AFTER THE DATE IMPLEMENTING A PINK BOLLWORM ERADICATION PROGRAM  
35 IN A REGION.

36           C. D. After a pink bollworm eradication program has been established  
37 under this section:

38           1. The council may assess a fee on or before July 1 each year of not  
39 more than forty THIRTY-TWO dollars per planted acre of cotton to control the  
40 pink bollworm. Title 41, chapter 6 does not apply to setting the fee under  
41 this section, but the council shall provide ~~sixty~~ THIRTY days' advance notice  
42 of the meeting at which the fee will be adopted and the proposed amount of  
43 the fee. The fee shall be based on a detailed expenditure plan for that year  
44 to control the pink bollworm in non-Bt fields. The council shall approve the  
45 expenditure plan before establishing the fee. The council shall provide a

1 copy of the proposed annual expenditure plan to all producers who request a  
2 copy within ten days before the meeting at which the fee will be  
3 adopted. The council shall receive public testimony at the meeting regarding  
4 the fee.

5 2. The council shall waive the fee for each planted acre of Bt cotton.

6 3. ~~On or before March 15 each year that the pink bollworm eradication~~  
7 ~~program is in effect~~ THIRTY DAYS AFTER THE DATE ESTABLISHED BY RULES ADOPTED  
8 PURSUANT TO CHAPTER 2, ARTICLE 1 OF THIS TITLE FOR ABATEMENT OF THE NUISANCE  
9 OF COTTON OR COTTON STUBBLE, each producer shall register each acre of non-Bt  
10 cotton with the department COUNCIL on forms prescribed by the department  
11 COUNCIL and shall pay the fee in full to the council within sixty days of  
12 registration, unless the producer's lender guarantees payment or other  
13 arrangements are made to the council's satisfaction or under terms  
14 established by the council. The council, at its discretion, may permit late  
15 registration.

16 4. A producer shall not plant non-Bt cotton after the dates  
17 established in rules adopted pursuant to sections 3-204 and 3-205 without  
18 written permission of the council. ~~as follows:~~

19 ~~(a) Seventy-five days after the date established in rules for region~~  
20 ~~two.~~

21 ~~(b) Sixty days after the date established in rules for the specific~~  
22 ~~county in region one or region three.~~

23 5. The council may impose a civil penalty against a producer of not  
24 more than two hundred dollars per acre for each planted acre of non-Bt cotton  
25 for failure to register or failure to pay the fee when due under this  
26 section.

27 6. The council shall rebate, under terms established by the council,  
28 any collected fees that are not spent for protection from pink bollworm in  
29 non-Bt cotton fields STATEWIDE OR in the A region in which the fees were  
30 collected.

31 Sec. 3. Section 3-1087, Arizona Revised Statutes, is amended to read:  
32 3-1087. Deposit of fees; use on termination

33 A. Monies collected pursuant to sections 3-1086, and 3-1086.01 AND  
34 3-1086.02 shall be deposited and held in trust in the council's accounts,  
35 which are administered by the department as the council's agent, and  
36 disbursed as approved by the council for the purposes prescribed in this  
37 article.

38 B. The council may use monies collected under section 3-1086 as a  
39 refund to cotton producers to facilitate a program to provide incentives for  
40 the abatement of cotton fields. The council may issue a refund only on  
41 certification by the Arizona department of agriculture that the cotton field  
42 has been abated according to plow-up rules adopted under chapter 2, article  
43 1 of this title. With the approval of the cotton producer, a refund may be  
44 assigned to a lending institution. A portion of the refund may be withheld  
45 as a penalty for noncompliance with plow-up rules. The council in

1 cooperation with the department shall annually agree on criteria specifying  
2 how the amount of penalty shall be determined. A producer may appeal the  
3 withheld portion of the refund as a penalty pursuant to section 3-107.

4 C. If the council is terminated, any monies in the council's accounts  
5 shall be expended to meet existing legal obligations of the council. The  
6 council shall expend any remaining monies on any program consistent with this  
7 article.

8 D. The monies in the account may be invested pursuant to section  
9 35-313. Interest earned on these monies shall be credited to the account.

10 Sec. 4. Emergency

11 This act is an emergency measure that is necessary to preserve the  
12 public peace, health or safety and is operative immediately as provided by  
13 law.

APPROVED BY THE GOVERNOR MARCH 30, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 30, 2004.